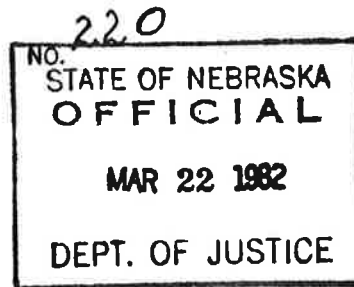


# DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509



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Deputy Attorney General  
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Deputy Attorney General

March 22, 1982

Senator John DeCamp  
Member of the Legislature  
1116 State Capitol  
Lincoln, Nebraska 68509

Dear Senator DeCamp:

In your letter of March 19, 1982, you ask whether, if the \$70 million distribution formula under §§77-3605 to 77-3609 were extended for another year, as proposed in LB 898, a city of the metropolitan class could bring suit to enjoin the distribution of funds, or challenge the constitutionality of the distribution formula without posting bond. Obviously, any party having standing to bring the suit could challenge the constitutionality of the distribution formula, and ask for a permanent injunction against the distribution under that formula, without posting bond.

The issue you are interested in, however, is whether a city of the metropolitan class could get a temporary injunction against such distribution while the action is pending, without posting bond. We pointed out in our opinion dated April 30, 1981, to Senator Johnson, Opinion No. 87, that Neb.Rev.Stat. §14-817 (Reissue 1977) makes provision for a city of the metropolitan class to obtain an injunction without posting a bond. This section provides:

No bond for cost, appeal, supersedeas, injunction or attachment shall be required of any city of the metropolitan class or of any officer, board, commission, head of any department, agent or employee of any such city in any proceeding or court action in which said city of the metropolitan class or its officer, board, commission, head of department, agent or employee is a party litigant in its or his official capacity.

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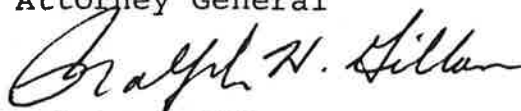
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We also point out that Neb.Rev.Stat. §15-842.01 (Reissue 1977) contains a similar provision with respect to cities of the primary class.

Very truly yours,

PAUL L. DOUGLAS  
Attorney General

A handwritten signature in cursive script, appearing to read "Ralph H. Gillan".

Ralph H. Gillan  
Assistant Attorney General

RHG:jmf

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cc: Patrick O'Donnell  
Clerk of the Legislature